

AFFIDAVIT

I, David J. Spirito, being duly sworn, depose and state as follows:

1. I am employed as a Detective with the Newton Police Department, where I have worked since 2000. Since 2011, I have been assigned to the Boston Office of the New England Division of the Drug Enforcement Administration (“DEA”) as a Task Force Officer (“TFO”). I am currently assigned to the Organized Crime Drug Enforcement Task Force Boston Strike Force, which is a strike force incorporating various law enforcement agencies, including DEA, the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), the Federal Bureau of Investigation (“FBI”), Immigration and Customs Enforcement Homeland Security Investigations (“HSI”), and the U.S. Marshals Service (“USMS”), among other agencies. I am a graduate of the Massachusetts Criminal Justice Training Council (MCJTC) Police Academy (1st Municipal Police Officers Class, Weymouth, Massachusetts).

2. As a Newton Detective and DEA Task Force Officer, I am authorized to investigate violations of the laws of the United States, including violations of federal narcotics laws in Title 21 of the United States Code. I have received training regarding narcotics investigations while attending the Basic Agent Academy in Quantico, Virginia, and have attended additional specialized training courses in furtherance of my past and current assignments.

3. I have participated in all aspects of drug investigations, including physical surveillance, surveillance of undercover transactions, the introduction of undercover agents, the execution of search warrants, the effecting of arrests, debriefings of defendants, informants and witnesses who had personal knowledge regarding major narcotics trafficking organizations, and the court-authorized interception of communications. I have also reviewed taped conversations

and telephone, financial, and drug records. Through my training and experience, I have become familiar with the manner in which illegal drugs are imported, transported, stored, and distributed, and the methods of payment for such drugs.

4. I am familiar with the facts and circumstances of this investigation from my own personal participation and from oral and written reports made to me by agents of the DEA and other federal, state, and local law enforcement agencies. I have also reviewed information from a variety of additional sources, including a confidential source of information.

PURPOSE OF AFFIDAVIT

5. I submit this affidavit in support of an application for a criminal complaint charging Angel VALDEZ with conspiring with SOTO-VILLAR, CABREARA, and others to distribute and to possess with intent to distribute 400 grams or more of fentanyl, in violation of Title 21, United States Code, Section 846 and 841(b)(1)(A)(vi). I have not included every fact known to me and other agents involved in this investigation. I have set forth only the facts needed to establish the requisite probable cause to issue the accompanying criminal complaint.

PROCEDURAL HISTORY

6. On December 10, 2018, I applied for a criminal complaint charging Carlos SOTO-VILLAR and Luis CABRERA with conspiracy to distribute 400 grams or more of fentanyl, in violation of Title 21, United States Code, Section 846 and 841(b)(1)(A)(vi). See United States v. Soto-Villar et al., No. MJ-18-5216-JGD, attached hereto as Exhibit 1 and incorporated by reference.¹ On February 27, 2019, a United States Grand Jury returned an

¹ On May 24, 2019, a third defendant charged in the complaint, Julio LAMPLE, pleaded guilty to an Information charging him with possession of a controlled substance, in violation of Title 21, United States Code, Section 844. See United States v. Lample, Cr. No. 19-10175-JCB. LAMPLE was sentenced to time served and one year of supervised release.

indictment charging SOTO-VILLAR, CABRERA and others with conspiracy to distribute 400 grams or more of fentanyl and possession with intent to distribute 400 grams or more of fentanyl, in violation of Title 21, United States Code, Section 841(a)(1) and 841(b)(1)(A)(vi). See United States v. Soto-Villar et al., Cr. No. 19-10067-PBS.

7. On December 4, 2019, CABRERA pleaded guilty to both counts of the indictment pursuant to a written plea agreement. He is scheduled to be sentenced on May 12, 2020. SOTO-VILLAR is currently scheduled for trial on April 6, 2020.

8. As is set forth in Exhibit 1 and discussed more fully below, in late November, 2018, CABRERA offered to obtain two kilograms of fentanyl for a cooperating source (CS-1). At the direction of agents, CS-1 arranged to purchase the two kilograms of fentanyl from CABRERA for \$55,000 per kilogram. On December 7, 2018, agents equipped CS-1 with a recording device and CS-1 met CABRERA and an associate of CABRERA's in a white Jeep at a predetermined meeting location in Massachusetts. CS-1 told them that they would have to travel to a different location to obtain payment for the fentanyl. Agents stopped CABRERA and the associate as they were on their way to pick up the money. Agents seized one kilogram of fentanyl, a Scheduled II controlled substance, from the Jeep. Post-Miranda, CABRERA's associate advised agents that they had obtained the kilogram of fentanyl from 73 Tenney Street, third floor apartment, in Methuen ("73 Tenney Street"). Agents obtained a search warrant for that location (No. 18-5215-JGD).

9. While agents were in the process of obtaining the search warrant, troopers with the Massachusetts State Police went to 73 Tenney Street and began to conduct surveillance. Troopers observed a white Infiniti, registered to Angel VALDEZ, 413 Boston Street, Apartment 1L, Lynn, Massachusetts, pull into the driveway at that address. From their vantage point,

troopers could not see whether anyone had gotten out of the white Infiniti. Troopers observed a second car, a grey Infiniti, park near 73 Tenney Street and then watched two men walk toward the rear of the building. A short time later, troopers observed the lights come on in the third floor apartment. Troopers went to the third floor apartment to secure the location until the warrant could be issued. When the troopers announced their presence, they heard the sound of men running through the apartment. As the troopers entered the apartment, they saw three men running out the front door, throwing \$100 bills as they ran. The men made it out the front door of 73 Tenney and separated. Troopers apprehended one of the men, SOTO-VILLAR, on Tenney Street.²

10. Pursuant to the warrant, agents recovered nine packages wrapped in shrink wrap which, based on analysis by the DEA Northeast Regional Laboratory, were later determined to be kilograms of fentanyl. In addition, agents seized plastic bags containing thousands of pressed pills (confirmed through laboratory analysis to contain fentanyl). Together, the packages and pills weighed approximately 10 kilograms. Agents also seized cash, a kilo press, shrink wrap, plastic baggies, blenders and mixers with drug residue on them, cutting agents, and digital scales from the unfurnished and otherwise empty apartment.

EVIDENCE IN SUPPORT OF PROBABLE CAUSE

11. VALDEZ And The White Infiniti. On December 7, 2018, CABRERA's associate identified 73 Tenney Street as the location where the kilogram of fentanyl seized from the Jeep had originated. While agents were in the process of applying for a search warrant, troopers

² After SOTO-VILLAR was arrested, troopers walked back to 73 Tenney and encountered LAMPLE. A key ring seized from LAMPLE included keys to the grey Infiniti and a key to the third floor apartment. LAMPLE initially said the grey Infiniti was his car, but then claimed he had borrowed the car from a friend and that the keys were not his.

observed a white Infiniti registered to VALDEZ arrive at 73 Tenney Street. From their vantage point, troopers could not see anyone exit the Infiniti, but after the search was completed, agents towed the white Infiniti to Sheehan's Tow Yard in Haverhill. On December 18, 2018, VALDEZ arrived at the tow yard to pick up the white Infiniti. A Haverhill Police officer and former DEA TFO met VALDEZ at the tow yard and provided VALDEZ with the keys to the Infiniti. The officer identified a Registry of Motor Vehicles (RMV) photograph of VALDEZ as the person who took possession of the white Infiniti registered to VALDEZ at 413 Boston Street in Lynn.

12. The Civilian Witness. In this investigation, agents received information from a confidential source of information (SOI-1).³ In a handwritten statement, SOI-1 advised agents that on December 7, 2018, SOI-1 had been at home when SOI-1 heard a knock on the door to its residence (SOI-1 lives in close proximity to 73 Tenney Street). When SOI-1 went to the door, SOI-1 observed an Hispanic male wearing an unzipped sweater, jeans, white socks, and no sneakers. SOI-1 wrote that the man said, "Can I come in, police, I with friend, police" [sic]. The man started to come into SOI-1's home but SOI-1 put its hands up to tell the man not to come any closer. SOI-1 observed that the man's right palm was bleeding. The man implored SOI-1 to let him in, repeating, in Spanish, "I'm a good person, I'm a good person." When SOI-1 asked the man why he wanted to come in the house, he said he wanted to hide from the police who were chasing him because of a fight at a friend's house. When the man asked SOI-1 for a pair of sneakers, SOI-1 closed and locked its door to prevent the man from entering SOI-1's home.

13. The Cooperating Witness. During this investigation, agents have received detailed information about VALDEZ and his drug trafficking associates from a cooperating witness (CW-

³ SOI-1 is a concerned citizen who wishes to remain anonymous at this time because it fears for its safety. Based on my work on the investigation and my training and experience, I believe those fears are reasonable. Agents will take steps necessary to ensure the safety of SOI-1 and SOI-1's family.

1).⁴ At the first of several interviews with agents, CW-1 viewed three photographic arrays containing eight photographs each (a law enforcement officer with no involvement with this investigation showed CW-1 one photograph at a time). In viewing the arrays, CW-1 correctly identified VALDEZ, SOTO-VILLAR, and SOTO-VILLAR's wife. According to CW-1, VALDEZ, SOTO-VILLAR, SOTO-VILLAR's wife, CABRERA, and others worked together to distribute fentanyl and fentanyl pills. VALDEZ and members of his drug organization, including SOTO-VILLAR, used 73 Tenney Street, apartment 3, as a stash house. According to CW-1, on December 7, 2018, SOTO-VILLAR provided CABRERA and CABRERA's associate with the kilogram of fentanyl seized in the white Jeep and that the kilogram of fentanyl came from the stash apartment at 73 Tenney Street.

14. CW-1 advised agents that it spoke to VALDEZ about the search of 73 Tenney Street after December 7, 2018. According to CW-1, VALDEZ knew that the police were aware he was at 73 Tenney Street because his car had been parked there. VALDEZ told CW-1 that as police tried to arrest him he ran from 73 Tenney Street and cut himself when he jumped a fence (CW-1 initially advised agents that VALDEZ had cut his leg but in a subsequent interview CW-1 advised that VALDEZ had cut his hand).⁵ VALDEZ told CW-1 that the "Mexicans," which I believe is a reference to the source of supply for the fentanyl, contacted SOTO-VILLAR's wife

⁴ CW-1 is the same individual present with CABRERA when agents seized a kilogram of fentanyl from the white Jeep ("CABRERA's associate"). CW-1 has known VALDEZ for several years and has worked with VALDEZ to distribute large quantities of controlled substances. CW-1 pleaded guilty to a federal drug trafficking offense pursuant to a written plea agreement containing a standard cooperation provision. CW-1 is cooperating in the hopes that its information will lead the government to recommend a reduced sentence to the Court at CW-1's sentencing hearing. The government has informed CW-1 that it will bring its cooperation to the attention of the Court and will take steps to ensure the safety of CW-1 and CW-1's family. These steps may include efforts to request that CW-1 be permitted to remain in the United States after CW-1 is sentenced.

⁵ CW-1 was not present at 73 Tenney Street at the time of the chase and search.

after the drugs were seized to try to determine whether anyone was cooperating with law enforcement.

15. CW-1 provided agents with two telephone numbers for VALDEZ and told agents that VALDEZ had repeatedly called CW-1 after agents executed the search warrant at 73 Tenney Street. Agents obtained subscriber information and toll records for the two phone numbers provided by CW-1. One of the two phones was subscribed to VALDEZ at 413 Boston Street. Toll records showed that VALDEZ's two phones were in contact with CW-1's cellular telephone a total of 47 times between December 8 and December 13, 2018.

16. The Consensually Recorded Telephone Call. When CW-1 began cooperating with law enforcement, agents provided CW-1 with a software application that consensually recorded CW-1's incoming and outgoing telephone calls. Thereafter, CW-1 had several recorded telephone calls with VALDEZ.⁶

17. One such call took place on or about December 31, 2018. During that call, CW-1 recorded a conversation with VALDEZ, who spoke to CW-1 over the cell phone registered to him at 413 Boston Street in Lynn. During the recorded conversation, VALDEZ talked about the night of the search. VALDEZ referred to "8 in the apartment," which I believe is a nearly-accurate reference to the number of kilograms of fentanyl recovered from 73 Tenney Street. VALDEZ told CW-1, "If I have to go to Mexico I will go, if they kill me they can kill me over there I won't put my family at risk." VALDEZ told CW-1 that he believed "Jairo" (i.e., SOTO-VILLAR) must have turned himself in to immigration officials to avoid punishment because there was no mention of an arrest in Lawrence "with everything in the house and the press" (73 Tenney Street in Methuen is a very short distance away from the town line in Lawrence). CW-1

⁶ The calls were in Spanish. Agents have obtained summaries and draft partial transcripts of several of the phone calls.

then discussed being stopped with “Luis” (i.e., CABRERA) with the kilogram of fentanyl. VALDEZ told CW-1, “You told me you were stopped for a regular cop, by the state police, this and that.” When CW-1 told VALDEZ that CW-1 had been stopped by a “black and white” and a “black” or unmarked car, VALDEZ explained, “That’s a robbery . . . Jairo is in with Luis as well. Maybe when they got together they said we have people . . . maybe they also bought a state police officer. Do you understand me? I don’t know what’s going on here.”

18. VALDEZ shared with CW-1 his belief that the incident at 73 Tenney Street may also have been a robbery. VALDEZ believed that “Efrain,” who I have identified as SOTO-VILLAR’s brother-in-law, had left the back door to 73 Tenney Street open. According to VALDEZ, “Jairo” (i.e., SOTO-VILLAR) told VALDEZ, “buddy, go open for Efrain” (in this passage, I believe VALDEZ is recounting how SOTO-VILLAR told him to open the door at 73 Tenney Street when they heard troopers entering the building). VALDEZ told CW-1, “And that is when I got suspicious because when I opened the door I was like, ‘let me see what is going on,’ so when I opened the door, maybe they didn’t think I was going to open the door because that was a miracle that I opened the door because if those people get me upstairs they were going to kill me.” VALDEZ then told CW-1 about encountering “a little white one with a green sweater and beige pants, the one I rammed into,” and told CW-1 he saw “a weird truck, a four-door Ford.” One of the troopers at 73 Tenney Street that night was driving a white, four-door Ford and was dressed in a green sweater and beige pants. That trooper advised me that he had attempted to apprehend an individual who ran out of the front of 73 Tenney Street and was knocked to the ground when doing so.

19. Finally, VALDEZ told CW-1, “Carolina’s brother has already killed two people in Santo Domingo.” (“Carolina’s brother” is “Efrain”). CW-1 then asked VALDEZ,

“Carolina’s brother? The one that used to live with her . . . was he there too?” VALDEZ replied “Yes, he was coming, he was on his way there in a taxi.” (While agents were preparing to execute the search warrant at 73 Tenney Street, “Efrain,” SOTO-VILLAR’s brother-in-law, arrived in a taxi, was interviewed by agents, and then left.) CW-1 said to VALDEZ, “Oh, but he didn't arrive?” VALDEZ and CW-1 had the following exchange:

VALDEZ: He didn't arrive, because that is when I left, it looks like they got impatient . . . [w]hen I came downstairs, when I came downstairs that is when they got desperate (or impatient) because they never thought that I was going to stay up there, that I was going to open the door and leave.

CW-1: Oh.

VALDEZ: That people was for that . . . Those people had their plan . . . They were going to beat me up even with the water . . . You don’t even know if they would find my body somewhere because those people were going to kill me I know it you understand me? . . . And I dreamed about it clearly . . . since the moment you told me “Oh they went for Jairo, but they didn't grab anything . . . And I was like, ‘Mami, what I have over there, move it, take it out, escape, take it all out,’ and that is exactly how it happened, that was a sign from God, God protects me so much . . . That is why I got the feeling to go downstairs [unintelligible] and if they start yelling police, police, what would I do if I hear that? Stay still? I ran a million miles an hour downstairs, do you understand me? But don't worry, don’t say anything. When they grab Efrain they will call me then and I will cut his fingers myself.

CW-1: But you know where Efrain lives?

VALDEZ: I know where he lives . . . He moved but I will find him and I will cut his fingers myself and make him talk because he knows very well and I will cut his ear if I need to.

20. Based on my work in this investigation and on my training and experience, I believe that in these passages, VALDEZ shared his thinking with CW-1, who he believed at the time was still a member of the fentanyl-trafficking conspiracy. VALDEZ identified other co-conspirators, including “Jairo” (SOTO-VILLAR) and “Efrain,” who arrived at 73 Tenney Street

after the foot chase and as agents were preparing to conduct the search. VALDEZ accurately described a surveillance vehicle that was parked at 73 Tenney Street on December 7, 2018. VALDEZ provided an accurate description of a trooper who was present at the front of 73 Tenney Street. VALDEZ described having a physical altercation with the trooper and I know from my work on this investigation that the trooper VALDEZ described had a physical confrontation with someone in the front of 73 Tenney Street.


CONCLUSION

21. Based upon the foregoing, there is probable cause to believe that from on or about November 2018 until on or about December 7, 2018, VALDEZ conspired with SOTO-VILLAR, CABRERA, and others to distribute and to possess with intent to distribute 400 grams or more of fentanyl, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 846 and 841(b)(1)(A)(vi).



David J. Spirito
Task Force Officer
Drug Enforcement Administration

Sworn to and subscribed before me this 10th day of March 2020.



HONORABLE JUDITH G. DEIN
United States Magistrate Judge
District of Massachusetts